

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

BLUE SPIKE, LLC,

Plaintiff,

v.

VOBILE, INC.,

Defendant

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C.A. NO. 6:12-cv-539-LED

JURY TRIAL DEMANDED

ORAL HEARING REQUESTED

DECLARATION OF XIAOYING YUAN IN SUPPORT OF VOBILE, INC.'S
MOTION TO DISMISS COMPLAINT FOR LACK OF PERSONAL JURISDICTION
AND IMPROPER VENUE

I, Xiaoying Yuan, CPA hereby declare and say:

1. I am over the age of 18 years and I am the Corporate Controller of Vobile, Inc., the named defendant in the above-referenced action. I make this declaration in support of Vobile, Inc.'s ("Vobile") Motion to Dismiss for Lack of Personal Jurisdiction and Improper Venue. I have never been convicted of a felony and am otherwise competent to make this declaration. I have personal knowledge of all facts stated herein and all such facts are true and correct.
2. Vobile is a California corporation with its headquarters and principal place of business located in Santa Clara, California. All of Vobile's U.S. employees, officers, and directors reside in California except one employee who works from home in Michigan. All of Vobile's U.S. Internet servers are also located in California.
3. Vobile does not direct any activities into the State of Texas. Since its formation in 2005, Vobile has never directed business to the State of Texas or the Eastern District

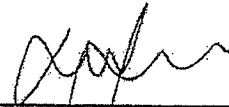
of Texas. Vobile is not registered to engage or transact business in the forum state and has never had any office, employees, agents, consultants, or contractors there.

4. Vobile provides digital media content identification and management services to content providers. Vobile's content identification technology is used to determine the ownership of digital content, to prevent its unauthorized distribution, and to track its usage. Vobile offers a software as a service (referred to in the art as "SaaS") to content owners called "VideoTracker." This service is used to identify, track, and protect online video and audio content, and to enable content owners to find unauthorized copies of content online and take timely enforcement actions to reduce or eliminate copyright infringements. Vobile also offers a content filtering service called "MediaWise" to websites in the U.S.
5. Vobile does not have any customers residing in Texas or conduct any customer business there. Vobile's customers include content owners and websites. None of these customers are located in Texas.
6. Vobile does not sell any products, alleged to infringe or otherwise, to customers within the State of Texas. Vobile does not receive any sales or revenue originating from the forum state. Vobile does not ship any products into the forum state, directly or through independent distributors, and does not render any services to state residents. Vobile has no sales contracts with entities located in Texas and does not conduct any manufacturing, design, research or development, or have any points of distribution there. Vobile does not maintain any offices, warehouses, factories, or other facilities in Texas; nor does Vobile maintain any bank accounts; or

own, lease, or rent any real estate in the forum state. Vobile does not advertise in Texas by television, newspaper, or magazine, and has never actively solicited business there. Vobile doesn't have a telephone listing in Texas.

7. Vobile's contact with the State of Texas is through its passive website on the Internet. Vobile's website is located on the Internet at www.vobileinc.com and only provides general company information about Vobile including information about its products and services as well as business contact information, industry news, and announcements regarding opportunities for employment. Vobile does not conduct any business with customers, or fulfill any customer orders, from its website.
8. The function and purpose of the Vobile website is to advertise Vobile's business and products and services. Vobile's products and services cannot be accessed through the website. Vobile's website has a contact and customer support page for potential customers to contact a sales representative to learn more information about its products and services or to login and send email messages to Vobile's customer support representatives. *See Declaration of Xiaoying Yuan, Exhibit 1.*
9. Vobile is unaware of any other factual nexus with the State of Texas or this Eastern District of Texas.

I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct, and that this declaration was executed on this ninth day of October 2012, in Santa Clara, California.



Xiaoying Yuan